

MCP TECHNICAL CORRECTIONS

Massachusetts Contingency Plan, 310 CMR 40.0000

This document contains technical corrections to the MCP to address inconsistent or incorrect cross-references, scrivener's errors, and other inadvertent errors or omissions made in the text and Massachusetts Oil and Hazardous Material List in previous publications of these regulations.

MCP Technical Corrections

Note to Secretary of State Regulations Division: *this redlined version indicates technical corrections to the current regulations. Please make the revisions as indicated. The “...” notation is used to indicate that existing text, either before or after the indicated changes, is to remain unchanged.*

[Insert the following definition alphabetically in 310 CMR 40.0006 (12).]

40.0006: Terminology, Definitions and Acronyms

...

(12) For purposes of 310 CMR 40.0000, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise:

...

Engineered Barrier means a permanent cap with or without a liner that is designed, constructed and maintained in accordance with the requirements of 310 CMR 40.0996 and 310 CMR 40.0000.

...

[Correct the reference in the following definition in 310 CMR 40.0006 (12) as indicated.]

Periodic Review Opinion means an LSP Opinion that is prepared in accordance with 310 CMR 40.~~0580~~1051.

[Correct the reference in 40.0015 as indicated.]

40.0015: Content of Waste Site Cleanup Activity Opinions

...

(3) The submittals required by 310 CMR 40.0000, which are LSP Opinions, include, but are not limited to, the following:

...

(i) any Periodic Review Opinion submitted pursuant to 310 CMR 40.~~0580~~1051;

...

[Correct 310 CMR 40.0063(6) as indicated to be consistent with amendments to 310 CMR 4.00, effective June 29, 2007.]

40.0063: Approval of Applications for Special Project Designation Permits, and Special Project Designation Permit Modifications, Transfers or Extensions

(1) Special Project Designation Permits and Special Project Designation Permit Modifications, Transfers or Extensions shall be approved in accordance with the process and schedule in 310 CMR 40.0720.

...

(6) A Special Project Designation Permit or Special Project Designation Permit Modification, Transfer or Extension shall become effective:

- (a) ~~45~~36 days from the date the complete application is received by the Department, if the Permit is presumptively approved without conditions pursuant to 310 CMR 40.0720(4);
- (b) on the date the Department issues its written approval of the Permit, if approved with conditions;
- (c) ~~45~~36 days from the date the Department issues a Notice of Extended Review, if the Department issues the applicant(s) a Notice of Extended Review in accordance with 310 CMR 40.0720(4)(c) and the Permit is presumptively approved without conditions pursuant to 310 CMR 40.0720(5); or
- (d) on the date the Department issues its written approval of the Permit, if the applicant and the Department by written agreement extend any schedule for timely action or individual portion thereof for the review of a Permit application pursuant to 310 CMR 40.0720(7) or 310 CMR 4.00.

(7) A Special Project Designation Permit or Special Project Designation Permit Extension shall be effective for two years, unless otherwise established by the Department; any modification or transfer of a permit shall be effective for the remaining duration of the permit being transferred or modified.

...

[Correct 310 CMR 40.0313(5) as indicated.]

40.0313: Releases Which Require Notification Within 72 Hours

...

(5) a ~~e~~C~~o~~ndition of Substantial Release Migration, where such condition is associated with a release for which notification otherwise is or has at any time in the past been required in accordance with 310 CMR 40.0300.

[Correct 310 CMR 40.0317(17) as indicated.]

40.0317: Releases and Threats of Release Which Do Not Require Notification

...

(17) releases indicated by the presence of oil and/or hazardous material at disposal sites for which a determination or statement as specified in 310 CMR 40.0317(17)(a) through (e) has been provided, in concentrations that would otherwise meet one or more of the sets of criteria set forth in 310 CMR 40.0313 or 40.0315, unless the presence of such oil and/or hazardous material would negate or change such determinations or statements were that presence taken into account in the preparation thereof, or changes in activities, uses, and/or exposures at the disposal site require notification to the Department pursuant to the provisions of 310 CMR 40.0020. In this ~~context~~context, determinations or statements include:

...

[Correct subsection heading 310 CMR 40.0425 as indicated.]

40.0425: ~~Status Reports on~~ Immediate Response Actions Status and Remedial Monitoring Reports

[Correct 310 CMR 40.0442(3)(f) as indicated]

40.0442: Scope and Types of Release Abatement Measures

...

(3) Notwithstanding 310 CMR 40.0442(1)(d), Release Abatement Measures may include construction of a structure that could prevent or impede the implementation of likely response actions in the future, provided that prior to or concurrent with conducting such activities, the following are completed for the area within and adjacent to the footprint of the proposed structure in a manner that achieves the substantive technical standards set forth in 310 CMR 40.0800 and 40.0900:

...

(f) any remedial actions deemed necessary to ensure the eventual achievement of a level of No Significant Risk for the entire disposal site.

...

[Correct 310 CMR 40.0501(6) as indicated.]

40.0501: Scope and Applicability

...

(6) Except as provided at 310 CMR 40.0062(1)(j) for Special Project Designations, an individual Tier Classification Submittal may be for a single discrete disposal site located on one or more parcels of land or to address multiple discrete disposal sites located on a single parcel of land.

...

[Correct 310 CMR 40.0502(4) as indicated.]

40.0502: Tier ID Disposal Sites

(1) A disposal site shall be deemed a Tier ID ("default") disposal site if any of the following apply:

(a) an RP, PRP or Other Person for such disposal site fails to submit to the Department one of the following by the applicable deadline in 310 CMR 40.0501:

1. a Response Action Outcome Statement; or
2. a Tier Classification Submittal and, if applicable, a Tier I Permit Application;

(b) such disposal site had been categorically classified as Tier IB before June 27, 2003 pursuant to 310 CMR 40.0600 or as a result of the failure of an RP, PRP, or Other Person to submit one of the following by the applicable deadline:

1. a Response Action Outcome Statement;
2. a Tier Classification Submittal, and, if applicable, a Tier I Permit Application; or

(c) the person undertaking response actions is in noncompliance with M.G.L. c. 21E, 310 CMR 40.0000 or any other applicable requirement and the Department reclassifies the disposal site a Tier ID disposal site pursuant to 310 CMR 40.0583.

...

(4) Any disposal site deemed Tier ID by the Department pursuant to 310 CMR 40.0502(1)(c) shall be reclassified as follows:

- (a) if the disposal site was previously classified pursuant to 310 CMR 40.0510, then the previous classification shall be effective when the Department determines that the RP, PRP, or Other Person has addressed the non-compliance, provided such classification has not expired;
- (b) if the disposal site was not previously classified, then the RP, PRP, or Other Person shall classify the disposal site pursuant to 310 CMR 40.0510 when the Department determines that the RP, PRP, or Other Person has addressed the non-compliance.

...

[Re-insert 310 CMR 40.0583 as indicated (provision was inadvertently deleted with the June 2006 amendments).]

40.0583: Department Reclassification of a Tier Classified Disposal Site

(1) General. The Department may, on its own initiative, reclassify a Tier IA, Tier IB, Tier IC, Tier ID or Tier II disposal site to a different Tier Classification pursuant to 310 CMR 40.0583

(2) Effect of Reclassification. A Reclassification made in accordance with 310 CMR 40.0583 shall have the effect of superseding the existing site classification.

(3) Criteria. The Department shall consider the criteria in 310 CMR 40.0730(1) when reclassifying a Tier Classified disposal site.

[Correct 310 CMR 40.0584(1) as indicated.]

40.0584: Participation by the Public, RPs, PRPs, and Other Persons in Department Reclassification

(1) Within seven days of reclassifying a Tier Classified disposal site pursuant to 310 CMR 40.0583, the Department shall provide notice to the public of the Reclassification as follows:

- (a) by publishing a legal-public notice pursuant to 310 CMR 40.1403(2)(b);
- (b) by mail or hand delivery of a copy of the legal-public notice to the Chief Municipal Officer and Board of Health in the community(ies) in which the disposal site is located and in any other community(ies) which the Department believes are likely to be affected by the disposal site;
- (c) by mail or hand delivery of a copy of the public notice to any person the Department reasonably believes:

...

[Correct 310 CMR 40.0720 as indicated to be consistent with amendments to 310 CMR 4.00, effective June 29, 2007.]

40.0720: Approval Process for Tier I Permit Applications, Major Modifications, Transfers or Extensions and Special Project Designation Permits

(1) General. 310 CMR 40.0720 through 40.0729, cited collectively as 310 CMR 40.0720, together with 310 CMR 4.04, define the approval process for Tier I Permit Applications or a Modification, Transfer or Extension of a Tier I Permit. The provisions of 310 CMR 40.0720 also define the review and approval process for a Special Project Designation Permit Application or a Special Project Designation Permit Modification, Transfer or Extension. The Department shall consider the requirements and criteria at 310 CMR 40.0060, when making a decision to grant or deny a Special Project Designation Permit or a Modification, Transfer or Extension of a Special Project Designation Permit.

(2) The Department shall consider the criteria in 310 CMR 40.0730(1) and 40.0731(1) and all other available information when reviewing a Tier I Permit Application or a Modification, Transfer or Extension submitted pursuant to 310 CMR 40.0700, and when making the following decisions:

- (a) to grant a Permit, Modification, Transfer or Extension;
- (b) to grant a Permit, Modification, Transfer or Extension with conditions pursuant to 310 CMR 40.0740(3)(n); or
- (c) to deny a Permit, Modification, Transfer or Extension.

(3) Commencement of Schedule. For purposes of 310 CMR 40.0720 and 310 CMR 4.04(2)(a), the computation of time periods shall commence on the day following the day a complete Tier I Permit Application, Major Modification, Transfer or Extension or Special Project Designation Permit Application, Modification, Transfer or Extension is received at the appropriate regional office of the Department or on the day following the day the applicable permit application fee is received, as described in 310 CMR 40.0008, whichever occurs later.

(4) A Tier I Permit or a Major Modification, Transfer or Extension of a Tier I Permit or Special Project Designation Permit, or Modification, Transfer or Extension of a Special Project Designation Permit shall be presumed approved without conditions 4536 days from the date the complete Application was received by the Department pursuant to 310 CMR 40.0720(3), unless prior to the end of the 4536 day period, the Department provides to the applicant(s) one of the following:

- (a) a decision to deny the applicant a Tier I Permit or a Major Modification, Transfer or Extension of a Tier I Permit, based upon the criteria in 310 CMR 40.0730 and 40.0731 or deny the applicant a Special Project Designation Permit, or Modification, Transfer or Extension of a Special Project Designation Permit, based on the criteria in 310 CMR 40.0063(3) and (4);
- (b) a decision to grant the applicant a Tier I Permit or a Major Modification, Transfer or Extension of a Tier I Permit with conditions pursuant to 310 CMR 40.0740(3)(n), based upon the criteria in 310 CMR 40.0730, or to grant the applicant a Special Project Designation Permit, or Modification, Transfer or Extension of a Special Project Designation Permit with conditions, based on the criteria in 310 CMR 40.0063(3) and (4); or
- (c) a Notice of Extended Review indicating that because of the nature and complexity of the review, based on the criteria set forth in 310 CMR 40.0730(1) or 310 CMR 40.0063(3) and (4), whichever is applicable, the Department requires an additional 4536 days from the date the Notice of Extended Review is issued by the Department to complete its review.

(5) If the Department issues the applicant(s) a Notice of Extended Review in accordance with 310 CMR 40.0720(4)(c), the Tier I Permit or a Major Modification, Transfer or Extension

of a Tier I Permit or the Special Project Designation Permit or Modification, Transfer or Extension shall be presumed approved without conditions ~~90~~72 days from the date the complete Application was received by the Department pursuant to 310 CMR 40.0720(3), unless the Department provides ~~to~~ the applicant(s) with one of the following prior to ~~90~~72 days from the date the complete Application was received by the Department:

(a) a decision to deny the applicant a Tier I Permit or a Major Modification, Transfer or Extension of a Tier I Permit, based upon the criteria in 310 CMR 40.0730 and 40.0731, or deny the applicant a Special Project Designation Permit, or Modification, Transfer or Extension of a Special Project Designation Permit, based on the criteria in 310 CMR 40.0063(3) and (4); or

(b) a decision to grant the applicant a Tier I Permit or a Major Modification, Transfer or Extension of a Tier I Permit with conditions pursuant to 310 CMR 40.0740(3)(n), based upon the criteria in 310 CMR 40.0730, or to grant the applicant a Special Project Designation Permit, or Modification, Transfer or Extension of a Special Project Designation Permit with conditions, based on the criteria in 310 CMR 40.0063(3) and (4).

(6) Presumptive approval of a Tier I Permit, Major Modification, Transfer or Extension or a Special Project Designation Permit, Modification, Transfer or Extension pursuant to 310 CMR 40.0720 means the RP, PRP or Other Person has approval to proceed with Response Actions in compliance with all applicable provisions of 310 CMR 40.0000. Such presumptive approval shall not be construed as approval by the Department of the scope or adequacy of plans or of the response actions as actually conducted, or as forgiveness of non-compliance with any provision of 310 CMR 40.0000.

(7) Extensions of Review Schedule by Agreement. The applicant and the Department may, by written agreement, extend any schedule for timely action or individual portion thereof for a Tier I Permit application pursuant to 310 CMR 40.0720 or 310 CMR 4.00.

(8) Tier I Permit, Transfer, Extension or Major Modification Applications Pending as of June 27, 2003. Unless otherwise specified by the Department, Tier I Permit, Transfer, Extension or Major Modification applications pending approval as of June 27, 2003 shall be presumed approved without conditions 45 days from June 27, 2003 or 75 days from the date such application was submitted, whichever date is sooner.

[Correct 310 CMR 40.0875(1)(b) as indicated.]

40.0875: As-Built Construction Report

(1) As-Built Construction plans shall be prepared and submitted to the Department in an As-Built Construction Report for:

...

(b) any disposal site where an Engineered Barrier, cap or other on-site system for the containment and/or physical immobilization of oil and/or hazardous material is constructed as part of the remedial action alternative; or

[Correct 310 CMR 40.0880(1) as indicated.]

40.0880: Public Involvement

(1) Public Involvement Activities shall be conducted in accordance with 310 CMR 40.1400 through 40.1406. Public Involvement Activities relevant to Phase IV specifically include, but are not limited to, 310 CMR 40.1403(3)(a) and (e).

[Correct 310 CMR 40.0881(1)(c) as indicated.]

40.0881: Possible Outcomes

(1) Upon completion of Phase IV activities the following outcomes are possible:

...

(c) the requirements of a Class C Response Action Outcome under 310 CMR 40.1000 have been met, and Post-Class C RAO operation, maintenance and/or monitoring of the remedial action under 310 CMR 40.0897 and 40.0898 is necessary to ensure that the conditions upon which the Class C RAO is based are maintained and/or that further progress toward a Permanent Solution is made.

[Correct 310 CMR 40.0893(6)(d)2. as indicated.]

40.0893: Remedy Operation Status

(6) Termination of Remedy Operation Status

(d) Notwithstanding 310 CMR 40.0893(6)(c), any person who intends to discontinue operation of the remedial system on which the Remedy Operation Status is based in order to assess whether the remedial goals have been achieved and conditions remain stable over time may maintain Remedy Operation Status provided that he/she:

...

2. continues to submit Status Reports at the frequency required described in 310 CMR 40.0892; and

...

[Correct 310 CMR 40.0894(2)(a)1., 2., and 3. as indicated.]

40.0894: Phase V Completion Statement

...

(2) The Phase V Completion Statement form shall include:

(a) an Opinion from a Licensed Site Professional:

that:

1. specifies the Phase V outcome achieved as described in 310 CMR 40.~~0895~~0896;
2. except where operation, maintenance and/or monitoring are continuing under 310 CMR 40.~~0896~~0897 and 40.0898, provides a description of residual oil and/hazardous material at the disposal site and any measures in place, including physical barriers and/or Activity and Use Limitation for preventing or limiting the exposure of human and/or environmental receptors to residual oil and hazardous material; and
3. except where operation, maintenance and/or monitoring are continuing under 310 CMR 40.~~0896~~0897 and 40.0898, provides justification for terminating operation, maintenance and/or monitoring activities; and

...

[Correct 310 CMR 40.0896(3) as indicated.]

40.0896: Possible Outcomes

(3) the requirements of a Class C Response Action Outcome under 310 CMR 40.1000 have been met, a Class C Response Action Outcome Statement has been submitted to the Department, and additional Post-Class C RAO Operation, Maintenance, and/or Monitoring of the remedial action alternative under 310 CMR 40.0897 and 40.0898 is necessary to ensure that the conditions upon which the Class C RAO is based are maintained and/or that further progress toward a Class A RAO is made.

[Correct 310 CMR 40.0897(2)(f) and (3) as indicated.]

40.0897: Post-Class C RAO Operation, Maintenance and/or Monitoring

(2) Post-Class C RAO operation, maintenance and/or monitoring activities may include the following:

...

(f) documentation and submission of the results of operation, maintenance and monitoring activities to the Department, as described in 310 CMR 40.~~0892~~0898.

(3) Post-Class C RAO operation, maintenance and/or monitoring activities shall be conducted at a frequency which is sufficient to ensure the effective performance and the integrity of the remedial action, consistent with the Response Action Performance Standard as described in 310 CMR 40.0191, and in conformance with the terms of applicable permits, approvals, licenses and remedial action plan. Such plan shall be revised and updated as warranted in response to changes in site conditions, modifications to remedial systems, or as otherwise necessary to ensure that the remedial action achieves design standards and remedial goals.

...

[Correct 310 CMR 40.0924(4) as indicated.]

40.0924: Identification of Exposure Points

(4) Hot spots shall be considered distinct Exposure Points.

[Correct 310 CMR 40.0932(5)(d)1.a. as indicated.]

40.0932: Identification of Applicable Groundwater Categories

(5) Notwithstanding the provisions of 310 CMR 40.0932(4):

(d) Existing Private Wells. Groundwater that is categorized as a Current Drinking Water Source Area solely due to its location within 500 feet of a private water supply well need not be categorized as GW-1 if:

1. the private water supply well is removed from service as a source of drinking water and the following conditions are met:

- a. written documentation has been submitted to the Department pursuant to ~~310 CMR 40.1003~~ demonstrating that the property(ies) served by the private water supply well has been connected to a public water supply system; and

[Correct the header on page 1645 as indicated.]

40.0955: continued

[Correct 310 CMR 40.0984(2) and (3) as indicated.]

40.0984: Derivation of Additional Method 1 Soil Standards for Use in Method 2.

If an MCP Method 1 Soil Standard has not been promulgated by the Department, the RP, PRP or Other Person may develop an MCP Method 2 Standard for that oil and/or hazardous material on the basis of the following assumptions and procedures:

(2) Based upon non-cancer health risk, a concentration of the oil and/or hazardous material associated with 20% of a Reference Dose shall be identified using equations specific to each soil category.

Where:	[OHM] =	the concentration of oil and/or hazardous material being derived, in units: mg/kg (ppm)
	RfD =	the chronic or subchronic Reference Dose for the chemical, in units: mg/(kg x day)
	RAF _{oral} =	the Relative Absorption Factor applicable for oral exposures, dimensionless
	RAF _{dermal} =	the Relative Absorption Factor applicable for dermal exposures, dimensionless
	C =	10 ⁶ mg/kg conversion factor
	0.2 =	20% source allocation factor
	Other numerical values =	Average Daily Exposure to the soil of concern by the oral or dermal pathway. In units: mg _{soil} /(Kg _{bw} x day)

(a) S-1 Standards: The concentration of the oil and/or hazardous material shall be derived using the following equation:

$$[OHM] = (RfD_{\text{chronic}} \times 0.2 \times C) / ((RAF_{\text{oral}} \times 2.4) + (RAF_{\text{dermal}} \times 21))$$

(b) S-2 Standards: The concentration of the oil and/or hazardous material is derived using the lower result from the following equations:

$$[OHM] = (RfD_{\text{chronic}} \times 0.2 \times C) / ((RAF_{\text{oral}} \times 0.27) + (RAF_{\text{dermal}} \times 0.5)); \text{ and}$$

$$[OHM] = (RfD_{\text{subchronic}} \times 0.2 \times C) / ((RAF_{\text{oral}} \times 1.3) + (RAF_{\text{dermal}} \times 12.4))$$

(c) S-3 Standards: the concentration of the oil and/or hazardous material is derived using the following equation:

$$[OHM] = (RfD_{\text{subchronic}} \times 0.2 \times C) / ((RAF_{\text{oral}} \times 0.631.3) + (RAF_{\text{dermal}} \times 32.512.4))$$

(3) A concentration of the oil and/or hazardous material associated with an Excess Lifetime Cancer Risk equal to one-in-one million shall be identified using equations specific to each soil category;

Where:

[OHM] =	the concentration of oil and/or hazardous material being derived, in units: mg/kg (ppm)
CSF =	the oral Carcinogenic Slope Factor, in units: (mg/(kg \times day)) ⁻¹
RAF _{oral} =	the Relative Absorption Factor applicable for oral exposures, dimensionless
RAF _{dermal} =	the Relative Absorption Factor applicable for dermal exposures, dimensionless
C =	10 ⁶ mg/kg conversion factor
Other numerical values =	Lifetime Average Daily Exposure to the soil of concern by the oral or dermal pathway. In units: mg _{soil} /(Kg _{bw} \times day)

(a) S-1 Standards: The concentration of the oil and/or hazardous material shall be derived using the following equation:

$$[OHM] = (1 \times 10^{-6} \times C) / (CSF \times ((RAF_{oral} \times 0.38) + (RAF_{dermal} \times 4.1)))$$

(b) S-2 Standards: the concentration of the oil and/or hazardous material shall be derived using the following equation:

$$[OHM] = (1 \times 10^{-6} \times C) / (CSF \times ((RAF_{oral} \times 0.11) + (RAF_{dermal} \times 0.19)))$$

(c) S-3 Standards: The concentration of the oil and/or hazardous material shall be derived using the following equation:

$$[OHM] = (1 \times 10^{-6} \times C) / (CSF \times ((RAF_{oral} \times 0.01) + (RAF_{dermal} \times 0.09)))$$

[Correct 310 CMR 40.0996(4), (5), (8) and (9) as indicated.]

40.0996: Method 3 Upper Concentration Limits

(4) For a disposal site at which the concentration of one or more oil and/or hazardous material in Soil exceeds an Upper Concentration Limit, a level of No Significant Risk of harm to public welfare and to the environment exists or has been achieved for both current and future conditions if a finding of No Significant Risk of harm to public welfare and the environment has been made pursuant to 310 CMR 40.0994 and 40.0995, respectively, an Activity and Use Limitation is implemented as required in 310 CMR 40.1012(2), and the Soil with concentrations exceeding an Upper Concentration Limit:

- (a) has been permanently immobilized or fixated as part of a remedial action;
- (b) is located at a depth greater than 15 feet from the ground surface; or
- (c) is located beneath an engineered barrier.

(5) An ~~e~~Engineered ~~b~~Barrier means a permanent cap with or without a liner that is designed, constructed and maintained in accordance with scientific and engineering standards to achieve a level of no significant risk for any foreseeable period of time.

(a) An ~~e~~Engineered ~~b~~Barrier shall:

- 1. ~~shall~~ prevent direct contact with contaminated media;

2. ~~shall~~ control any vapors or dust emanating from contaminated media;
3. ~~shall~~ prevent erosion and any infiltration of precipitation or run-off that could jeopardize the integrity of the barrier or result in the potential mobilization and migration of contaminants;
4. ~~shall~~ be comprised of materials that are resistant to degradation;
5. ~~shall~~ be consistent with the technical standards of RCRA Subpart N, 40 CFR 264.300, 310 CMR 30.600 or equivalent standards;
6. ~~shall~~ include a defining layer that visually identifies the beginning of the barrier;
7. ~~shall~~ be appropriately monitored and maintained to ensure the long-term integrity and performance ~~of the barrier. Plans for in accordance with a~~ the monitoring and maintenance ~~of the barrier plan that~~ shall be submitted to the Department and shall document that one or more financial assurance mechanism(s), detailed in 310 CMR 30.906, have been established and adequately provide for ongoing future monitoring, maintenance and any necessary replacement of the barrier; ~~and~~
- 8.(b) ~~shall~~ an Engineered Barrier shall not include an existing building, structure or cover material unless it is designed and constructed to serve as an engineered barrier pursuant to the requirements of 310 CMR 40.0996(4).

~~(5) Ongoing monitoring to ensure that a condition of No Significant Risk is maintained shall be performed as necessary at any disposal site where a Permanent Solution has been achieved and the concentration of one or more oil and/or hazardous material is greater than the Upper Concentration Limits.~~

...

~~(8) For any oil or hazardous material not listed at~~ Except as specified in 310 CMR 40.0996(7)(c) for any oil or hazardous material not listed at 310 CMR 40.0996(7), either a default or chemical-specific Upper Concentration Limit must be used.

...

(9) Ongoing monitoring shall be performed as necessary to ensure that a condition of No Significant Risk is maintained at any disposal site where a Permanent Solution has been achieved and the concentration of one or more oil and/or hazardous material is greater than the Upper Concentration Limit. The results of such monitoring shall be submitted to the Department.

[Correct 310 CMR 40.1003(5) as indicated.]

40.1003: General Provisions for Response Action Outcomes

...

(5) A Response Action Outcome shall not be achieved unless and until each source of oil and/or hazardous material which is resulting or is likely to result in an increase in concentrations of oil and/or hazardous material in an environmental medium, either as a consequence of a direct discharge or through intermedia transfer of oil and/or hazardous material,

...

[Correct 310 CMR 40.1012 (2)(a)3. and (3)(b) as indicated.]

40.1012: Application of Activity and Use Limitations

...

(2) Except as provided in 310 CMR 40.1012(3), Activity and Use Limitations shall be required:

(a) at all disposal sites or portions of disposal sites for which a Response Action Outcome and the risk characterization pursuant to 310 CMR 40.0900 used to support the RAO are based upon the restriction or limitation of Site Activities and Uses to achieve or maintain a level of No Significant Risk including:

...

3. any disposal site or portion of a disposal site at which the oil and/or hazardous material in soil located at a depth greater than fifteen feet from the ground surface exceeds an applicable Upper Concentration Limit in Soil listed at 310 CMR 40.0996(7); or determined at 310 CMR 40.0996(8).

...

(3) Activity and Use Limitations shall not be required but may be used to provide notice of the existence of residual contamination to future holders of an interest(s) in property that is located within:

...

(b) disposal sites or portions of disposal sites at which residual contamination at levels at or below the applicable Upper Concentration Limits for Soil listed or determined in 310 CMR 40.0996(6) is located at a depth greater than 15 feet from the ground surface;

...

[Correct 310 CMR 40.1036 (4)(e) as indicated.]

40.1036: Categories of Class A Response Action Outcomes

...

(4) Class A-4 Response Action Outcomes shall apply to disposal sites where:

...

(e) an evaluation conducted pursuant to 310 CMR 40.0860 indicates that it is not feasible to reduce the concentrations of oil and hazardous material in soil located at a depth greater than 15 feet from the ground surface or in the area beneath the engineered barrier to less than or equal to the applicable Upper Concentration Limits in Soil listed at 310 CMR 40.0996(7). As required by 310 CMR 40.0859(4), a Permanent Solution which relies upon an Engineered Barrier shall not be selected unless and until, a Phase III evaluation performed pursuant to the provisions of 310 CMR 40.0850 demonstrates the lack of a feasible alternative.-

[Correct 310 CMR 40.1056 (2)(b) and (k) as indicated.]

40.1056: Content of Response Action Outcome Statements

...

(2) Except where previously submitted, all documentation, plans and/or reports necessary to support the Response Action Outcome shall be submitted to the Department, including, without limitation, the following:

...

(b) for all Class A Response Action Outcomes and, ~~where applicable to the extent feasible, for~~ to Class C Response Action Outcomes, a demonstration that all uncontrolled sources, as specified in 310 CMR 40.1003(5) have been eliminated or controlled;

...

(k) for all Class A, B, or C Response Action Outcomes, a Data Usability Assessment documenting that the data relied upon is scientifically valid and defensible, and of a sufficient level of precision, accuracy, and completeness to support the RAO, and a Data Representativeness Evaluation, documenting the adequacy of the spatial and temporal data sets to support the RAO.

[Correct 310 CMR 40.1066 (1) as indicated.]

40.1066: Effect of Response Action Outcomes on Fees

(1) ~~Except where response actions are being conducted in accordance with the provisions of 310 CMR 40.0581(1) or 310 CMR 40.0582(1), upon~~ Upon receipt of a Class C-1 Response Action Outcome Statement filed in accordance with 310 CMR 40.1000, the Department shall suspend the further assessment of Tier I or Tier II Annual Compliance Assurance Fees, whichever are applicable, and shall assess a Post-RAO Class C Annual Compliance Assurance Fee pursuant to 310 CMR 4.03.

[Correct 310 CMR 40.1067 (4)(b) and (c) as indicated.]

40.1067: Remedial Actions After a Response Action Outcome has been Submitted to the Department

...

(4) For remedial actions conducted within an area subject to an Activity and Use Limitation after the submittal of a Class A-3 or B-2 Response Action Outcome Statement to the Department, the following requirements shall apply:

...

(b) Remedial actions that exceed the scope of the limited soil excavation activities outlined in 310 CMR 40.1067(4)(a), or are being conducted to allow a change in Site Activities and Uses pursuant to 310 CMR 40.1080, shall be conducted as Release Abatement Measures, and shall not require a Tier I Permit, Tier II Classification or Extension thereof, provided:

...

(c) Remedial actions that exceed the scope of a Release Abatement Measure as described in 310 CMR 40.0442 shall be conducted as a Phase IV Comprehensive Remedial Response Action, as specified at 310 CMR 40.0870, provided:

...

[Correct reference in 310 CMR 40.1074 (1)(b) as indicated.]

40.1074: Notice of Activity and Use Limitation

(1) General Requirements. At any disposal site or portion of a disposal site where a RP, PRP or Other Person is conducting a response action(s) for which a Notice of Activity and Use Limitation has been selected as a form of Activity and Use Limitation pursuant to 310 CMR 40.1070, the following requirements shall be met:

- (a) the Notice of Activity and Use Limitation shall be prepared using Form 1075 set forth in 310 CMR 40.1099;
- (b) an Activity and Use Limitation Opinion shall be submitted on a form prescribed by the Department to the Department with a Response Action Outcome Statement pursuant to 310 CMR 40.1056(2)(~~eh~~) and shall specify:

...

[Correct 310 CMR 40.1081 (4)(c) as indicated.]

40.1081: Amendment of Activity and Use Limitations

...
(4) Amending a Notice of Activity and Use Limitation. A Notice of Activity and Use Limitation shall be amended in accordance with the following:

- ...
- (c) prior to the recording and/or registration of an Amendment to Notice of Activity and Use Limitation pursuant to 310 CMR 40.1081(4)(d), current holders of any record interest(s) in the area subject to the proposed Amendment to Notice of Activity and Use Limitation (including without limitation, owners, lessees, tenants, mortgagees, and holders of easements or licenses) shall be notified by the property owner by certified mail, return receipt requested, of the existence and location of oil and/or hazardous material within such area and the terms of such proposed Amendment to Notice of Activity and Use Limitation. Such proposed Amendment to Notice of Activity and Use Limitation shall not be recorded and/or registered until at least 45 days after such notification of current record interest holders has occurred, unless all parties receiving such notification provide a written waiver of the 45-day waiting period to the property owner;

...

[Correct 310 CMR 40.1083 (1)(a 1.), (b), (d)4.a., and (e)6. as indicated.]

40.1083: Release or Termination of Activity and Use Limitations

(1) Release of Activity and Use Limitation.

- (a) In cases where, as a result of additional response actions pursuant to 310 CMR 40.0000 conducted at a disposal site or a portion of a disposal site, a recorded and/or registered Activity and Use Limitation is no longer necessary to maintain a level of No Significant Risk, or ~~to eliminate a No s~~Substantial ~~hazard~~Hazard, such Activity and Use Limitation shall be released as follows:

- 1. an LSP Opinion shall be provided on a form prescribed by the Department which explains why the Activity and Use Limitation is no longer necessary to maintain a level of No Significant Risk or No Substantial Hazard;

...

- (b) In cases where the termination of a Notice of Activity and Use Limitation is required pursuant to 310 CMR 40.1085, the Notice of Activity and Use Limitation shall be

terminated in accordance with 310 CMR 40.1083(1)(~~de~~). No LSP Opinion shall be required to terminate the Notice of Activity and Use Limitation, provided that the provisions of 310 CMR 40.1085 are satisfied.

...

(d) Releasing a Grant of Environmental Restriction. A Grant of Environmental Restriction shall be released in accordance with the following procedures:

...

4. within 30 days of recording and/or registering any Release of Grant of Environmental Restriction, the property owner shall submit to the Department:

a. a certified Registry copy of the Release of Grant of Environmental Restriction bearing the book and page/instrument number and/or document number; and

...

(e) A Notice of Activity and Use Limitation shall be terminated in accordance with the following procedures:

...

6. within 30 days of recording and/or registering any Termination of Notice of Activity and Use Limitation, the property owner shall submit to the Department a certified Registry copy of the Termination of Notice of Activity and Use Limitation bearing the book and page/instrument number and/or document number.

[Correct 310 CMR 40.1083 (2)(g)2. and (3)(e), (g), (h), and (i)2..]

40.1083: Release or Termination of Activity and Use Limitations

(2) Partial Release of Grant of Environmental Restriction. In cases where, as a result of additional response actions pursuant to 310 CMR 40.0000 conducted at a disposal site or a portion of a disposal site, a recorded and/or registered Grant of Environmental Restriction is no longer necessary to maintain a level of No Significant Risk or to eliminate a substantial hazard at a portion of the property subject to the Grant of Environmental Restriction, such Grant of Environmental Restriction shall be partially released as to such portion of the property pursuant to the following procedures:

...

(g) within 30 days of recording and/or registering any Partial Release of Grant of Environmental Restriction, the property owner shall submit to the Department:

...

2. if the property subject to the Grant of Environmental Restriction is unregistered land, a Registry copy of the Grant of Environmental Restriction being partially released; and

...

(3) Partial Termination of a Notice of Activity and Use Limitation. In cases where, as a result of additional response actions pursuant to 310 CMR 40.0000 conducted at a disposal site or a portion of a disposal site, a recorded and/or registered Notice of Activity and Use Limitation is no longer necessary to maintain a level of No Significant Risk or to eliminate a substantial hazard at a portion of the property subject to the Notice of Activity and Use Limitation, such Notice of Activity and Use Limitation shall be partially terminated as to such portion of the property pursuant to the following procedures:

...

(e) the Partial Termination of Notice of Activity and Use Limitation shall be recorded and/or registered by the property owner at the appropriate Registry of Deeds and/or Land Registration Office; ~~;~~

- ...
- (g) local officials and the public shall be informed of the Partial Termination of Notice of Activity and Use Limitation pursuant to 310 CMR 40.1403(7); ~~and~~
 - (h) a revised Response Action Outcome Statement and supporting documentation pursuant to 310 CMR 40.1056 reflecting any changes in the class of Response Action Outcome as the result of additional response actions and the Partial Termination of Notice of Activity and Use Limitation shall be submitted to the Department; ~~and~~
 - (i) within 30 days of recording and/or registering any Partial Termination of Notice of Activity and Use Limitation, the property owner shall submit to the Department:

- ...
- 2. if the property subject to the Notice of Activity and Use Limitation is unregistered land, a Registry copy of the Notice of Activity and Use Limitation being partially terminated;
- ...

[Correct 310 CMR 40.1085 (4)(f)2..]

40.1085: Correction of Notices of Activity and Use Limitation

- ...
- (4) Confirmatory Activity and Use Limitations shall be implemented in accordance with the following:

- ...
- (f) no later than 30 days after the recording of the Confirmatory Activity and Use Limitation, the following shall be submitted to the Department:

- ...
- 2. a Registry copy of any required survey plan(s) referenced in the Confirmatory Activity and Use Limitation bearing the plan book/plan number(s);

[Correct 310 CMR 40.1099 Form 1072A as indicated.]

Form 1072A

GRANT OF ENVIRONMENTAL RESTRICTION

M.G.L. c. 21E, § 6 and 310 CMR 40.0000

DEP Site Name: _____

DEP Release Tracking No.(s) _____

This GRANT OF ENVIRONMENTAL RESTRICTION is made as of this ____ day of _____, 20____, by _____, of _____ (Town/City), _____ County, _____(State) ("Grantor").

W I T N E S S E T H

WHEREAS, _____ is the owner(s) in fee simple of that [those] certain parcel(s) of [vacant] land located in _____(Town/City), _____ County, Massachusetts [with the buildings and improvements thereon], pursuant to [a deed recorded with the _____ Registry of Deeds in Book _____, Page _____];[source of title other than by

deed];and/or [Certificate of Title No. _____ issued by the Land Registration Office of the _____ Registry District];

WHEREAS, said parcel(s) of land, which is more particularly bounded and described in Exhibit A, attached hereto and made a part hereof ("Property") is subject to this Grant of Environmental Restriction. The Property is shown on [a plan recorded with the _____ County Registry of Deeds in Plan Book _____, Plan _____], and/or on [Land Court Plan No. _____];

[WHEREAS, a portion of the Property ("Portion of the Property") is subject to this Grant of Environmental Restriction. The Portion of the Property is more particularly bounded and described in Exhibit A-1, attached hereto and made a part hereof. The Portion of the Property is shown on [a plan recorded with the _____ Registry of Deeds in Plan Book _____, Plan _____] and/or on [a sketch plan attached hereto and filed herewith for registration];

WHEREAS, the [Property] ["Portion of the Property"] comprises [all][part of] a disposal site as the result of a release of oil and/or hazardous material. Exhibit B is a sketch plan showing the location of the [Property][Portion of the Property] subject to this Grant of Environmental Restriction in relation to the boundaries of said disposal site existing within the limits of the Property and to the extent such boundaries have been established. Exhibit B is attached hereto and made a part hereof; and

WHEREAS, one or more response actions have been selected for [the Disposal Site][Portion of the Disposal Site] in accordance with M.G.L. c. 21E ("Chapter 21E") and the Massachusetts Contingency Plan, 310 CMR 40.0000 ("MCP"). Said response actions are based upon (a) the restriction of human access to and contact with oil and/or hazardous material in soil [and/or groundwater] and/or (b) the restriction of certain activities occurring in, on, through, over or under the [Property] [Portion of the Property]. The basis for such restrictions is set forth in an Activity and Use Limitation Opinion ("AUL Opinion") dated _____, (which is attached hereto as Exhibit C and made a part hereof);

NOW, THEREFORE, in accordance with the provisions of M.G.L. c. 21E, § 6 and the MCP, I, _____ ("Grantor") hereby GRANT to the DEPARTMENT OF ENVIRONMENTAL PROTECTION, an agency established under the laws of the Commonwealth of Massachusetts, having its principal office at One Winter Street, Boston, Massachusetts 02108 ("DEP"), as a gift, with QUITCLAIM COVENANTS, an ENVIRONMENTAL RESTRICTION, ("Restriction") in, on, through, over and under the [Property] [Portion of the Property] ("Restricted Area").

Said Restriction is subject to the following terms and conditions:

1. Restricted Uses and Activities. Grantor shall not perform, suffer, allow or cause any person to perform any of the following activities in, on, upon, through, over or under the Restricted Area, or any of the following uses to be made of the Restricted Area:

(i) [List restricted uses]; and/or

(ii) [List restricted activities];

(iii) Except as provided in Paragraphs (2) and (4) of this Grant, there shall be no excavation or removal of any loam, peat, gravel, sand, rock or other mineral or natural resource; and

(iv) Any action or inaction which, in the Opinion of a person licensed by the Board of Registration of Waste Cleanup Professionals, or any successor agency (a holder of such license hereinafter referred to as "LSP"), is reasonably likely to:

(a) (select one) [Create a significant risk of harm to health, safety, public welfare or the environment] [Create a substantial hazard];

(b) [Where remedial action includes a surface cover, cap or sealant designed to contain or reduce exposure to the oil and/or hazardous material, disturb the structural integrity of such cover, without first obtaining the express written consent of an LSP].

2. Permitted Uses and Activities. Grantor expressly reserves the right to perform, suffer, allow or to cause any person to perform any of the following activities in, on, through, over or under the Restricted Area or any of the following uses to be made of the Restricted Area:

(i) _____;

(ii) _____;

(iii) Such other activities or uses which, in the Opinion of an LSP, shall present no greater risk of harm to health, safety, public welfare or the environment than the activities and uses set forth in this Paragraph; and

(iv) Such other activities and uses not identified in Paragraph 1 as being Restricted Uses and Activities.

3. Obligations and Conditions. Grantor affirmatively agrees to perform the following activities [and][or] to maintain the following conditions at the Restricted Area in order to (select one) [maintain a condition of No Significant Risk] [eliminate a substantial hazard] (such conditions and terms defined in 310 CMR 40.0000) as set forth in the AUL Opinion.

[Insert specific activities and conditions set forth in the AUL Opinion, if any.]

4. Emergency Excavation. If it becomes necessary to excavate as part of a response to an emergency (e.g., repairing utility lines or responding to a fire or flood), and such excavation could result in a significant risk of harm from exposure to oil and/or hazardous material at the Restricted Area, the requirements of Paragraph (1) (iii) of this Grant may be suspended, provided Grantor complies with the requirements set forth in 310 CMR 40.0320, and:

(i) Notifies DEP of such emergency as soon as possible but no more than two hours after having learned of such emergency;

(ii) Limits the actual disturbance involved in such excavation to the minimum reasonably necessary to adequately respond to the emergency;

(iii) Implements all measures necessary to limit actual or potential risk to health, safety, public welfare or the environment, including the following:

1. _____ ;
2. _____ ;
3. _____ ; and

(iv) Engages an LSP to oversee the implementation of this Paragraph, and to prepare and oversee the implementation of a written plan which, in the LSP's Opinion, will restore the Restricted Area to a condition(s) that meets the objectives of the Grant of Environmental Restriction in accordance with 310 CMR 40.1071(2)(l)

5. Easements. In establishing this Restriction, Grantor hereby grants the following easements for the term of this Grant to DEP, its agents, contractors, subcontractors, and employees:

- (i) To pass and repass over [the Property] [the Restricted Area] for purposes of inspecting the Restricted Area to insure compliance with the terms of this Restriction; and
- (ii) In, on, through, over and under the Restricted Area for purposes of conducting subsurface investigations, installing groundwater monitoring wells, and conducting other investigations of the Restricted Area and/or remediation activities consistent with M.G.L. c. 21E and the MCP.

6. Severability. Grantor hereby agrees, in the event that a court or other tribunal determines that any provision of this instrument is invalid or unenforceable:

- (i) That any such provision shall be deemed automatically modified to conform to the requirements for validity and enforceability as determined by such court or tribunal; or
- (ii) That any such provision that, by its nature, cannot be so modified, shall be deemed deleted from this instrument as though it had never been included.

In either case, the remaining provisions of this instrument shall remain in full force and effect.

7. Enforcement. Grantor expressly acknowledges that a violation of the terms of this instrument could result in the following:

- (i) the assessment of penalties and other action by DEP to enforce the terms of this Restriction, pursuant to M.G.L. c. 21E and the MCP; and/or
- (ii) upon a determination by a court of competent jurisdiction, the issuance of criminal and civil penalties, and/or equitable remedies which could include the issuance of an order to modify or remove any improvements constructed in violation of the terms of this Restriction.

8. Provisions to Run with the Land. This Restriction establishes certain rights, liabilities, agreements and obligations for the [Property] [Restricted Area], or any portion thereof, which

shall run with the [Property] [Restricted Area], or any portion thereof, for the term of this Restriction. Grantor hereby covenants for himself/herself/itself and his/her/its executors, administrators, heirs, successors and assigns, to stand seized and hold title to the [Property] [Restricted Area], or any portion thereof, subject to this Restriction.

The rights granted to DEP, its successors and assigns, do not provide, however, that a violation of this Restriction shall result in a forfeiture or reversion of Grantor's title to the Restricted Area.

9. Concurrence Presumed. It is agreed that:

(i) Grantor and all parties claiming by, through or under Grantor shall be deemed to be in accord with the provisions of this document; and

(ii) all such parties and any party claiming by, through or under them, and their respective agents, contractors, sub-contractors and employees, also agree that the Restriction herein established shall not be violated and that their respective interests in the [Property] [Restricted Area] shall be subject to the provisions herein set forth.

10. Incorporation into Deeds, Mortgages, Leases and Instruments of Transfer. Grantor hereby agrees to incorporate this Restriction, in full or by reference, into all future deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer by which an interest in and/or a right to use the [Property] [Restricted Area], or any portion thereof, is conveyed.

11. Amendment and Release. This Restriction may be amended or released in accordance with M.G.L. c. 21E and the MCP (310 CMR 40.1080 *et seq.*).

12. No Dedication Intended. Nothing herein shall be construed to be a gift or dedication of the [Property] [Restricted Area] to DEP or to the general public for any purpose whatsoever.

13. Term. This Restriction shall run [in perpetuity] [for a period of ____ years] and is intended to conform to M.G.L. c. 184, § 26 as amended.

14. Rights Reserved. It is expressly agreed that acceptance of this Restriction by DEP shall not express nor imply DEP approval of the adequacy of this or any other response action affecting the [Disposal Site][Portion of Disposal Site]. Acceptance of this Restriction shall not operate to bar, diminish, nor in any way affect any legal or equitable right of DEP to issue any future order with respect to the (select one) [Disposal Site][Portion of the Disposal Site] or in any way affect any other claim, action, suit, cause of action, or demand which DEP may have with respect to the [Disposal Site][Portion of the Disposal Site].

This Restriction shall become effective upon its recordation and/or registration with the appropriate Registry of Deeds and/or Land Registration Office.

As this Restriction is a gift, no Massachusetts deed excise stamps are affixed hereto, none being required by law.

WITNESS the execution hereof under seal this ____ day of _____, 20__.

[Name of Grantor]

[COMMONWEALTH OF MASSACHUSETTS]
[STATE OF _____]

_____, ss

_____, 20____

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ (name of document signer), proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

(as partner for _____, a partnership)

(as _____ for _____, a corporation)

(as attorney in fact for _____, the principal)

(as _____ for _____, (a) (the) _____)

_____ (official signature and seal of notary)

The undersigned Waste Site Cleanup Professional hereby certifies that [he][she] executed the AUL Opinion, dated _____, filed with the Department of Environmental Protection under Release Tracking No(s). _____, and attached hereto as Exhibit C and made a part hereof, and that in [his][her] Opinion this Restriction is consistent with the terms of said AUL Opinion.

Date: _____

[Name of LSP]
[LSP SEAL]

[COMMONWEALTH OF MASSACHUSETTS]
[STATE OF _____]

_____, ss

_____, 20____

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ (name of document signer), proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

(as partner for _____, a partnership)

(as _____ for _____, a corporation)

(as attorney in fact for _____, the principal)

(as _____ for _____, (a) (the) _____)

_____ (official signature and seal of notary)

In accordance with M.G.L. c. 21E, § 6, as amended, and the Massachusetts Contingency Plan (310 CMR 40.0000), as amended, the Commissioner of the Department of Environmental Protection hereby approves this Grant of Environmental Restriction (as to form only).

Date: _____

Commissioner
Department of Environmental Protection

Upon recording, return to:

Office of General Counsel
Department of Environmental Protection
One Winter Street
Boston, MA 02108

[Correct 310 CMR 40.1099 Form 1072B as indicated.]

Form 1072B

SUBORDINATION AGREEMENT

Disposal Site Name: _____

DEP Release Tracking No.(s) _____

_____, of _____ (Town/City), _____
County, _____ (State), is the holder of a _____ granted by
_____ to _____, dated _____, recorded with
_____ Registry of Deeds in Book _____, Page _____ and/or registered with the Land
Registration Office of _____ Registry District as Document No. _____.

_____ hereby assents to the Grant of Environmental Restriction granted
by _____ to the Department of Environmental Protection dated _____ and
recorded with the _____ Registry of Deeds in Book _____, Page _____, and/or registered with
the Land Registration Office of _____ Registry District as Document No. _____, and
agrees that the _____ shall be subject to said Grant and to the rights created by and
under said Grant insofar as the interests created under the _____ affect the [Property]
[Restricted Area] identified in the Grant and as if for all purposes said Grant had been executed,
delivered and recorded prior to the execution, delivery and recordation and/or registration of the
_____.

WITNESS the execution hereof under seal this _____ day of _____, 20____.

Holder

COMMONWEALTH OF MASSACHUSETTS

_____, ss

_____, 20__

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ (name of document signer), proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

(as partner for _____, a partnership)

(as _____ for _____, a corporation)

(as attorney in fact for _____, the principal)

(as _____ for _____, (a) (the) _____)

_____ (official signature and seal of notary)

[The execution of this Subordination Agreement by a secured lender and/or a fiduciary (as defined in M.G.L. c. 21E, § 2) for the purpose of subordinating its lien to said Grant shall not render such secured lender or fiduciary an "owner" or "operator", provided such secured lender and/or fiduciary shall not otherwise be an "owner" or "operator" within the meaning of § 2.]

Upon recording, return to:

Department of Environmental Protection
One Winter Street
Boston, MA 02108

[Correct 310 CMR 40.1099 Form 1075 as indicated.]

Form 1075

[CONFIRMATORY] NOTICE OF ACTIVITY AND USE LIMITATION

M.G.L. c. 21E, § 6 and 310 CMR 40.0000

Disposal Site Name: _____

DEP Release Tracking No.(s): _____

This [Confirmatory] Notice of Activity and Use Limitation ("Notice") is made as of this ____ day of _____, 20__, by _____ [Name and address of property owner(s)], together with his/her/its/their successors and assigns (collectively "Owner").

W I T N E S S E T H:

WHEREAS, _____ (Name of Owner(s)), [is][are] the owner(s) in fee simple of [that][those] certain parcel(s) of [vacant] land located in _____ (Town/City), _____ County, Massachusetts [with the buildings and improvements thereon], pursuant to [a deed recorded

with the _____ Registry of Deeds in Book _____, Page _____]; [source of title other than by deed]; and/or [Certificate of Title No. _____ issued by the Land Registration Office of the _____ ~~County~~ Registry District];

WHEREAS, said parcel(s) of land, which is more particularly bounded and described in Exhibit A, attached hereto and made a part hereof ("Property") is subject to this Notice of Activity and Use Limitation. The Property is shown on [a plan recorded in the _____ ~~County~~ Registry of Deeds in Plan Book _____, Plan _____], and/or on [Land Court Plan No. _____];

[WHEREAS, a portion of the Property ("Portion of the Property") is subject to this [Notice of Activity and Use Limitation]. The Portion of the Property is more particularly bounded and described in Exhibit A-1, attached hereto and made a part hereof. The Portion of the Property is shown on [a plan recorded with the _____ Registry of Deeds in Plan Book _____, Plan _____], and/or on [a sketch plan attached hereto and filed herewith for registration];

WHEREAS, the [Property] [Portion of the Property] comprises [all][part of] a disposal site as the result of a release of oil and/or hazardous material. Exhibit B is a sketch plan showing the relationship of the [Property][Portion of the Property] subject to this Notice of Activity and Use Limitation to the boundaries of said disposal site existing within the limits of the Property and to the extent such boundaries have been established. Exhibit B is attached hereto and made a part hereof; and

WHEREAS, one or more response actions have been selected for [the Disposal Site][Portion of the Disposal Site] in accordance with M.G.L. c. 21E ("Chapter 21E") and the Massachusetts Contingency Plan, 310 CMR 40.0000 ("MCP"). Said response actions are based upon (a) the restriction of human access to and contact with oil and/or hazardous material in soil [and/or groundwater] and/or (b) the restriction of certain activities occurring in, on, through, over or under the [Property] [Portion of the Property]. The basis for such restrictions is set forth in an Activity and Use Limitation Opinion ("AUL Opinion"), dated _____, (which is attached hereto as Exhibit C and made a part hereof);

NOW, THEREFORE, notice is hereby given that the activity and use limitations set forth in said AUL Opinion are as follows:

1. Activities and Uses Consistent with the AUL Opinion. The AUL Opinion provides that (select one) [a condition of No Significant Risk to health, safety, public welfare or the environment exists for any foreseeable period of time] [no substantial hazards remain] (pursuant to 310 CMR 40.0000) so long as any of the following activities and uses occur on the [Property][Portion of the Property]:

(i) _____ ;

(ii) _____ ;

(iii) Such other activities or uses which, in the Opinion of an LSP, shall present no greater risk of harm to health, safety, public welfare or the environment than the activities and uses set forth in this Paragraph; and

(iv) Such other activities and uses not identified in Paragraph 2 as being Activities and Uses Inconsistent with the AUL.

2. Activities and Uses Inconsistent with the AUL Opinion. Activities and uses which are inconsistent with the objectives of this Notice of Activity and Use Limitation, and which, if implemented at the [Property] [Portion of the Property], may result in a significant risk of harm to health, safety, public welfare or the environment or in a substantial hazard, are as follows:

- (i) ;
- (ii) ; and
- (iii) .

3. Obligations and Conditions Set Forth in the AUL Opinion. If applicable, obligations and/or conditions to be undertaken and/or maintained at the [Property] [Portion of the Property] to (select one) [maintain a condition of No Significant Risk] [eliminate a substantial hazard] as set forth in the AUL Opinion shall include the following:

- (i) ;
- (ii) ; and
- (iii) .

4. Proposed Changes in Activities and Uses. Any proposed changes in activities and uses at the [Property] [Portion of the Property] which may result in higher levels of exposure to oil and/or hazardous material than currently exist shall be evaluated by an LSP who shall render an Opinion, in accordance with 310 CMR 40.1080 *et seq.*, as to whether the proposed changes will (select one) [present a significant risk of harm to health, safety, public welfare or the environment] [will invalidate the conclusion that no substantial hazards remain]. Any and all requirements set forth in the Opinion to meet the objective of this Notice shall be satisfied before any such activity or use is commenced.

5. Violation of a Response Action Outcome. The activities, uses and/or exposures upon which this Notice is based shall not change at any time to cause a significant risk of harm to health, safety, public welfare, or the environment or to create substantial hazards due to exposure to oil and/or hazardous material without the prior evaluation by an LSP in accordance with 310 CMR 40.1080 *et seq.*, and without additional response actions, if necessary, to achieve or maintain a condition of No Significant Risk or to eliminate substantial hazards.

If the activities, uses, and/or exposures upon which this Notice is based change without the prior evaluation and additional response actions determined to be necessary by an LSP in accordance with 310 CMR 40.1080 *et seq.*, the owner or operator of the [Property] [Portion of the Property] subject to this Notice at the time that the activities, uses and/or exposures change, shall comply with the requirements set forth in 310 CMR 40.0020.

6. Incorporation Into Deeds, Mortgages, Leases, and Instruments of Transfer. This Notice shall be incorporated either in full or by reference into all future deeds, easements,

mortgages, leases, licenses, occupancy agreements or any other instrument of transfer, whereby an interest in and/or a right to use the Property or a portion thereof is conveyed.

Owner hereby authorizes and consents to the filing and recordation and/or registration of this [Confirmatory] Notice, said [Confirmatory] Notice to become effective when executed under seal by the undersigned LSP, and recorded and/or registered with the appropriate Registry(ies) of Deeds and/or Land Registration Office(s).

[This Confirmatory Notice of Activity and Use Limitation is given to correct the inadvertent error(s) made in the Notice of Activity and Use Limitation dated _____, and recorded with the _____ Registry of Deeds in Book _____, Page _____, said error(s) being as follows:

- (i) _____ ;
- (ii) _____ ; and
- (iii) _____ .

In all other respects the terms of the Notice of Activity and Use Limitation remain unchanged.]

WITNESS the execution hereof under seal this _____ day of _____, 20____.

[Name of Owner]

[COMMONWEALTH OF MASSACHUSETTS]
[STATE OF _____]

_____, ss _____, 20____

On this ____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____ (name of document signer), proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

(as partner for _____, a partnership)
(as _____ for _____, a corporation)
(as attorney in fact for _____, the principal)
(as _____ for _____, (a) (the) _____)

_____ (official signature and seal of notary)

The undersigned LSP hereby certifies that [he][she] executed the aforesaid Activity and Use Limitation Opinion attached hereto as Exhibit C and made a part hereof and that in [his][her] Opinion this [Confirmatory] Notice of Activity and Use Limitation is consistent with the terms set forth in said Activity and Use Limitation Opinion.

Date: _____

[Name of LSP]
[LSP SEAL]

[COMMONWEALTH OF MASSACHUSETTS]
[STATE OF _____]

_____, ss _____, 20__

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ (name of document signer), proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

(as partner for _____, a partnership)
(as _____ for _____, a corporation)
(as attorney in fact for _____, the principal)
(as _____ for _____, (a) (the) _____)

_____ (official signature and seal of notary)

Upon recording, return to:

(Name and Address of Owner)

[Correct 310 CMR 40.1099 Form 1082A as indicated.]

Form 1082A

[FIRST] AMENDMENT TO GRANT OF ENVIRONMENTAL RESTRICTION
M.G.L. c. 21E, § 6 and 310 CMR 40.0000

Disposal Site Name: _____
DEP Release Tracking No.(s): _____

WHEREAS, a Grant of Environmental Restriction from _____ of _____ (Town/City), _____ County, _____ (State), to the Department of Environmental Protection, an agency established under the laws of the Commonwealth of Massachusetts, having its principal office at One Winter Street, Boston, Massachusetts 02108 ("DEP"), dated _____, has been recorded with the _____ Registry of Deeds in Book _____, Page _____, and/or registered with the Land Registration Office of the _____ Registry District as Document No. _____; [Said Grant was previously amended by an Amendment to Grant of Environmental Restriction dated _____, recorded with the _____ Registry of Deeds in Book _____ Page _____ and/or registered with the Land Registration Office of the _____ Registry District as Document No. _____] (said Grant of Environmental Restriction and any amendments thereto are collectively referred to herein as "Grant");

WHEREAS, said Grant imposes certain restrictions on activities and uses, conditions, obligations and easements upon that certain parcel(s) of [vacant] land situated in _____ (Town/City), _____ County, Massachusetts [with the buildings and improvements thereon];

WHEREAS, said parcel of land is more particularly bounded and described in Exhibit A attached hereto and made a part hereof ("Property");

WHEREAS, said restrictions, conditions, obligations and easements are imposed upon the Property to maintain a condition of No Significant Risk (said condition being defined in 310 CMR 40.0000) in accordance with the terms of an Activity and Use Limitation Opinion ("AUL Opinion") dated _____, issued and signed by _____, holder of a valid license issued by the Board of Registration of Waste Site Cleanup Professionals pursuant to Massachusetts General Laws Chapter 21A, Sections 19-19J (the holder of such a license referred to as an "LSP") attached to said Grant of Environmental Restriction as Exhibit C and made a part thereof, in order to (select one) [maintain at the Property a condition of No Significant Risk] [eliminate a substantial hazard] (such conditions and terms being defined in 310 CMR 40.0000); and

(Select one of the following paragraphs)

[WHEREAS, the undersigned LSP, in accordance with Chapter 21E and the MCP, has issued and signed an AUL Opinion, dated _____, attached hereto as Exhibit B and made a part hereof. Said AUL Opinion explains that the implementation of the following proposed changes in Site Activity and Use at the Property will maintain a condition of No Significant Risk, as all response actions necessary to achieve such condition have been performed;]

[WHEREAS, the undersigned LSP, in accordance with Chapter 21E and the MCP, has issued and signed an AUL Opinion, dated _____, attached hereto as Exhibit B and made a part hereof. Said AUL Opinion explains that the implementation of the following proposed changes in Site Activity and Use at the Property will: (1) (select one) [maintain a condition of No Significant Risk at the Property][eliminate a substantial hazard]; and (2) that no additional response actions are necessary at the Property in connection with the implementation of said proposed changes;]

NOW, THEREFORE, in accordance with Chapter 21E and the MCP, the undersigned _____, of _____ (Town/City), _____ County, _____ (State), being the owner of the Property pursuant to [a deed recorded with the _____ Registry of Deeds in Book _____, Page _____]; [source of title other than by deed]; and/or [Certificate of Title No. _____ issued by the Land Registration Office of the _____ County Registry District], hereby amends said Grant as follows:

(Select as appropriate)

[Paragraph 1, "Restricted Uses and Activities", is amended to read as follows:]

[Paragraph 2, "Permitted Uses and Activities", is amended to read as follows:]

[Paragraph 3, "Obligations and Conditions", is amended to read as follows:]

In all other respects the provisions of said Grant remain unchanged.

This [First] Amendment to the said Grant shall become effective when executed under seal by the undersigned LSP, approved (as to its form) by the Commissioner of the Department of Environmental Protection, and recorded and/or registered with the appropriate Registry of Deeds and/or Land Registration Office.

WITNESS the execution hereof under seal this _____ day of _____, 20____.

[Name of Owner]

[COMMONWEALTH OF MASSACHUSETTS]
[STATE OF _____]

_____, ss

_____, 20____

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ (name of document signer), proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

(as partner for _____, a partnership)

(as _____ for _____, a corporation)

(as attorney in fact for _____, the principal)

(as _____ for _____, (a) (the) _____)

_____ (official signature and seal of notary)

The undersigned Waste Site Cleanup Professional hereby certifies that [he][she] executed the AUL Opinion dated ____ and filed with the Department of Environmental Protection under Release Tracking No.(s)_____, attached hereto as Exhibit B and made a part hereof, and that in [his][her] Opinion this [First] Amendment to said Grant is consistent with the terms of said AUL Opinion.

Date:_____

[Name of LSP]
[LSP SEAL]

[COMMONWEALTH OF MASSACHUSETTS]
[STATE OF _____]

_____, ss

_____, 20____

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ (name of document signer), proved to me through satisfactory evidence of identification, which were _____,

to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

(as partner for _____, a partnership)
(as _____ for _____, a corporation)
(as attorney in fact for _____, the principal)
(as _____ for _____, (a) (the) _____)

_____ (official signature and seal of notary)

In accordance with Massachusetts General Laws Chapter 21E, § 6, as amended, and the Massachusetts Contingency Plan, 310 CMR 40.0000, as amended, the Commissioner of the Department of Environmental Protection hereby approves this [First] Amendment to said Grant (as to form only).

Date: _____

Commissioner
Department of Environmental
Protection

Upon recording, return to:
Department of Environmental Protection
One Winter Street
Boston, MA 02108

[Correct 310 CMR 40.1099 Form 1082B as indicated.]

Form 1082B

[CONFIRMATORY] [FIRST] AMENDMENT TO NOTICE OF ACTIVITY AND USE LIMITATION
M.G.L. c. 21E, § 6 and 310 CMR 40.0000

Disposal Site Name: _____
DEP Release Tracking No.(s): _____

WHEREAS, a Notice of Activity and Use Limitation has been recorded with the _____ Registry of Deeds in Book _____ Page _____, and/or registered with the Land Registration Office of the _____ Registry District as Document No. _____. [Said Notice of Activity and Use Limitation was previously amended by an Amendment to a Notice of Activity and Use Limitation dated _____, recorded with the _____ Registry of Deeds in Book _____ Page _____ and/or registered with the Land Registration Office of the _____ County Registry District as Document No. _____] (said Notice of Activity and Use Limitation and any amendments thereto are collectively referred to herein as "Notice");

WHEREAS, said Notice sets forth limitations on use and activities, conditions and obligations affecting certain [vacant] parcel(s) of land situated in _____ (Town/City), _____ County, Massachusetts [with the buildings and improvements thereon], said land being more particularly

bounded and described in Exhibit A attached hereto and made a part hereof ("Property"). Said limitations on use and activities are consistent with the terms of an Activity and Use Limitation Opinion ("AUL Opinion") dated _____, signed and sealed by _____, holder of a valid license issued by the Board of Registration of Waste Site Cleanup Professionals, pursuant to Massachusetts General Laws Chapter 21A, Sections 19-19J (the holder being referred to as "LSP") attached to the Notice of Activity and Use Limitation as Exhibit C and made a part thereof, in order to (select one) [maintain at the Property a condition of No Significant Risk] [eliminate a substantial hazard] (such conditions and terms being defined in 310 CMR 40.0000); and

(Select one of the following paragraphs)

[WHEREAS, the undersigned LSP, in accordance with Chapter 21E and the MCP, has issued and signed an AUL Opinion, dated _____, and filed with DEP at its _____ Regional Office under Release Tracking No.(s). _____, attached hereto as Exhibit B and made a part hereof. Said AUL Opinion explains that the implementation of the following proposed changes in Site Activities and Uses at the Property will (select one)[maintain a condition of No Significant Risk][eliminate a substantial hazard];

and

[WHEREAS, the undersigned LSP, in accordance with M.G.L. c. 21E and the MCP, has issued and signed an AUL Opinion, dated _____, filed with DEP at its _____ Regional Office under Release Tracking No.(s)_____, and attached hereto as Exhibit B and made a part hereof. Said AUL Opinion explains that the implementation of the following proposed changes in Site Activities and Uses at the Property will (select one) [maintain a condition of No Significant Risk] [eliminate a substantial hazard] at the Property, and that no additional response actions are necessary;]

NOW THEREFORE, in accordance with M.G.L. c. 21E and the MCP, the undersigned _____, of _____ (Town/City), _____ County, _____ (State), being the owner of the Property pursuant to [a deed recorded with the _____ Registry of Deeds in Book _____, Page _____]; [source of title other than by deed]; and/or [Certificate of Title No. _____, issued by the Land Registration Office of the _____ Registry District], hereby amends said Notice as follows:

(Select as appropriate)

[Paragraph 1, "Activities and Uses Inconsistent with the AUL Opinion", is amended to read as follows:]

[Paragraph 2, "Permitted Uses and Activities Set Forth in the AUL Opinion", is amended to read as follows:]

[Paragraph 3, "Obligations and Conditions Set Forth in the AUL Opinion", is amended to read as follows:]

In all other respects the provisions of said Notice remain unchanged.

(Owner) authorizes and consents to the filing and recordation/and or registration of this [Confirmatory] [First] Amendment to Notice of Activity and Use Limitation, said [Confirmatory] [First] Amendment to become effective when executed under seal by the undersigned LSP and recorded and/or registered with the appropriate Registry of Deeds and/or Land Registration Office.

[This Confirmatory [First] Amendment to Notice of Activity and Use Limitation is given to correct the inadvertent error(s) made in the [First] Amendment to Notice of Activity and Use Limitation dated _____, and recorded with the _____ County Registry of Deeds in Book _____, Page _____, said error(s) being as follows:

- (i) _____ ;
- (ii) _____ ; and
- (iii) _____ .

In all other respects the terms of the [First] Amendment to Notice of Activity and Use Limitation remain unchanged.]

WITNESS the execution hereof under seal this _____ day of _____, 20____.

[Name of Owner]

[COMMONWEALTH OF MASSACHUSETTS]
[STATE OF _____]

_____, ss

_____, 20 ____

On this _____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____ (name of document signer), proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

(as partner for _____, a partnership)
(as _____ for _____, a corporation)
(as attorney in fact for _____, the principal)
(as _____ for _____, (a) (the) _____)

_____ (official signature and seal of notary)

The undersigned LSP hereby certifies that [he][she] executed the AUL Opinion dated _____, filed with DEP at its _____ Regional Office under Release Tracking No.(s) _____, attached hereto as Exhibit B and made a part hereof, and that, in [his][her] Opinion, this [Confirmatory] [First] Amendment to Notice of Activity and Use Limitation is consistent therewith.

Date: _____

[Name of LSP]
[LSP SEAL]

[COMMONWEALTH OF MASSACHUSETTS]
[STATE OF _____]

_____, ss

_____, 20 ____

On this ____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____ (name of document signer), proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

(as partner for _____, a partnership)

(as _____ for _____, a corporation)

(as attorney in fact for _____, the principal)

(as _____ for _____, (a) (the) _____)

_____ (official signature and seal of notary)

Upon recording, return to:

(Name and Address of Owner)

[Correct 310 CMR 40.1099 Form 1083A as indicated.]

Form 1083A

PARTIAL RELEASE OF GRANT OF ENVIRONMENTAL RESTRICTION

M.G.L. c. 21E, § 6 and 310 CMR 40.0000

Disposal Site Name: _____

DEP Release Tracking No.(s) _____

WHEREAS, a Grant of Environmental Restriction from _____ of _____ (Town/City), _____ County, _____ (State), to the Department of Environmental Protection, an agency established under the laws of the Commonwealth of Massachusetts, having its principal office at One Winter Street, Boston, Massachusetts 02108 ("DEP"), dated _____, has been recorded with the _____ Registry of Deeds in Book _____, Page _____, and/or registered with the Land Registration Office of the _____ Registry District as Document No. _____; [as amended by an Amendment to Grant of Environmental Restriction dated _____, recorded with the _____ Registry of Deeds in Book _____, Page _____, and/or registered with the Land Registration Office of the _____ Registry District as Document No. _____;] (said Grant of Environmental Restriction and any amendments thereto are collectively referred to herein as "Grant");

WHEREAS, said Grant imposes certain restrictions on activities and uses, conditions, obligations and easements upon certain [vacant] land situated in _____, _____ County, Massachusetts [with the buildings and improvements thereon], said land being more particularly bounded and described in Exhibit A attached hereto and made a part hereof ("Property");

WHEREAS, said restrictions, conditions, obligations and easements are imposed upon the Property to (select one) [maintain a condition of No Significant Risk] [eliminate a substantial hazard] (said conditions and terms being defined in 310 CMR 40.0000) in accordance with the terms of an Activity and Use Limitation Opinion ("AUL Opinion") dated _____, issued and signed by _____, holder

of a valid license issued by the Board of Registration of Waste Site Cleanup Professionals pursuant to M.G.L. c. 21A, §§ 19 through 19J (said holder being referred to as an "LSP"). Said AUL Opinion was issued and filed with DEP at its _____ Regional Office under Release Tracking No.(s) _____, a copy of which is attached to said Grant of Environmental Restriction as Exhibit C, and made a part thereof;

WHEREAS, the undersigned, _____, being an LSP, has issued an AUL Opinion in accordance with 310 CMR 40.0000, dated _____, a copy of which is attached hereto as Exhibit B and made a part hereof. Said AUL Opinion explains why the restrictions, conditions, obligations and easements created under said Grant are no longer necessary (select one) [to maintain a condition of No Significant Risk] [to eliminate a substantial hazard] at a portion of said Property, said portion being more particularly bounded and described in Exhibit C, attached hereto and made a part hereof, and being shown on [a plan recorded with the _____ Registry of Deeds in Plan Book _____, Plan _____], and/or on [a sketch plan attached hereto and filed herewith for registration] ("Portion of the Property"), and accordingly, said Grant may be released as to said Portion of the Property; and

WHEREAS, said [Name of LSP], has certified that [he]_____[she] executed the AUL Opinion attached hereto as Exhibit B, and that in [his]_____[her] Opinion, this Partial Release of Grant of Environmental Restriction is consistent with said AUL Opinion.

NOW THEREFORE, in accordance with M.G.L. c. 21E, § 6 and 310 CMR 40.0000, the undersigned _____, being the Commissioner of DEP, does hereby release, abandon and forever discharge the restrictions on activity and use, conditions, obligations and easements imposed upon said Portion of the Property under said Grant.

This Partial Release of Grant of Environmental Restriction shall become effective upon its recordation and/or registration with the appropriate Registry of Deeds and/or Land Registration Office.

WITNESS the execution hereof under seal this _____ day of _____, 20__.

Commissioner
Department of Environmental Protection

The undersigned LSP hereby certifies that [he]_____[she] executed the AUL Opinion dated _____, attached hereto as Exhibit B and made a part hereof, and that in [his]_____[her] Opinion, this Partial Release of Grant of Environmental Restriction is consistent with said AUL Opinion.

Date: _____

[Name of LSP]
[LSP SEAL]

[COMMONWEALTH OF MASSACHUSETTS]
[STATE OF _____]

_____, ss

_____, 20 __

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ (name of document signer), proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

(as partner for _____, a partnership)

(as _____ for _____, a corporation)

(as attorney in fact for _____, the principal)

(as _____ for _____, (a) (the) _____)

_____ (official signature and seal of notary)

Upon recording, return to:

(Name and Address of Owner)

[Correct 310 CMR 40.1099 Form 1083B as indicated.]

Form 1083B

[CONFIRMATORY] PARTIAL TERMINATION OF NOTICE OF ACTIVITY AND USE LIMITATION

M.G.L. c. 21E, § 6 and 310 CMR 40.0000

Disposal Site Name: _____

DEP Release Tracking No.(s) _____

WHEREAS, a Notice of Activity and Use Limitation has been recorded with the _____ Registry of Deeds in Book _____ Page _____, and/or registered with the Land Registration Office of the _____ Registry District as Document No. _____ [as amended by an Amendment to Notice of Activity and Use Limitation dated _____, recorded with the _____ Registry of Deeds in Book _____ Page _____, and/or registered with the Land Registration Office of the _____ Registry District as Document No. _____] (said Notice of Activity and Use Limitation and any amendments thereto are collectively referred to herein as "Notice");

WHEREAS, said Notice sets forth limitations on use and activities, conditions and obligations affecting certain [vacant] land situated in _____ (Town/City), _____ County, Massachusetts [with the buildings and improvements thereon], said land being more particularly bounded and described in Exhibit A attached hereto and made a part hereof ("Property");

WHEREAS, said limitations are consistent with the terms of an Activity and Use Limitation Opinion ("AUL Opinion") dated _____, signed and sealed by _____, holder of a valid license issued by the Board of Registration of Waste Site Cleanup Professionals, pursuant to M.G.L. c. 21A, §§ 19 through 19J (the holder being referred to as "LSP") attached to said Notice of Activity and Use Limitation as Exhibit C and made a part thereof, in order to (select one) [maintain at the Property a condition of No Significant Risk] [eliminate a substantial hazard] (said conditions and terms being defined in 310 CMR 40.0000); and

WHEREAS, the undersigned, _____, being an LSP, has issued an AUL Opinion in accordance with the MCP, dated _____, a copy of which is attached hereto as Exhibit B and made a part hereof. Said AUL Opinion states that the limitations on activities and uses, conditions and obligations set forth in said Notice are no longer necessary to (select one) [maintain a condition of No Significant Risk to health, safety, public welfare or the environment] [eliminate a substantial hazard] at a portion of said Property, said portion being more particularly bounded and described in Exhibit C, attached hereto and made a part hereof, and being shown on [a plan recorded with the _____ Registry of Deeds in Plan Book _____, Plan _____]; and/or on [a sketch plan attached hereto and filed herewith for registration] ("Portion of the Property"), and accordingly, said Notice may be terminated as to said Portion of the Property;

NOW, THEREFORE, as the limitations on activities and uses, conditions and obligations set forth in said Notice are no longer necessary to meet the requirements of 310 CMR 40.0000 as to said Portion of the Property, the undersigned, _____, of _____ (Town/City), _____ County, _____ (State), being the owner of said Property hereby terminates said Notice as to said Portion of the Property.

[This Confirmatory Partial Termination of Notice of Activity and Use Limitation is given to correct the inadvertent error(s) made in the Partial Termination of Notice of Activity and Use Limitation dated _____, and recorded with the _____ Registry of Deeds in Book _____, Page _____, said error(s) being as follows:

- (i) _____ ;
- (ii) _____ ; and
- (iii) _____ .

In all other respects the terms of the Partial Termination of Notice of Activity and Use Limitation remain unchanged.

[(____ Owner____)] authorizes and consents to the filing and recordation of this Confirmatory Partial Termination of Notice of Activity and Use Limitation, said Confirmatory Partial Termination to become effective when executed under seal by the undersigned LSP and recorded with the appropriate Registry of Deeds.]

[(____ Owner____)] authorizes and consents to the filing and recordation/and or registration of this Partial Termination of Notice of Activity and Use Limitation, said Partial Termination to become effective when executed under seal by the undersigned LSP and recorded and/or registered with the appropriate Registry of Deeds and/or Land Registration Office.]

WITNESS the execution hereof under seal this ____ day of _____, 20____.

[Name of Owner]

[COMMONWEALTH OF MASSACHUSETTS]
[STATE OF _____]

_____, ss

_____, 20__

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ (name of document signer), proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

(as partner for _____, a partnership)

(as _____ for _____, a corporation)

(as attorney in fact for _____, the principal)

(as _____ for _____, (a) (the) _____)

_____ (official signature and seal of notary)

[The undersigned LSP hereby certifies that [he]/[she] executed the AUL Opinion dated _____, filed with DEP at its _____ Regional Office under Release Tracking No.(s)_____, attached hereto as Exhibit B and made a part hereof, and that this [Confirmatory] Partial Termination of Notice of Activity and Use Limitation is consistent with said AUL Opinion.

Date: _____

[Name of LSP]

[LSP SEAL]

[COMMONWEALTH OF MASSACHUSETTS]

[STATE OF _____]

_____, ss

_____, 20__

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ (name of document signer), proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

(as partner for _____, a partnership)

(as _____ for _____, a corporation)

(as attorney in fact for _____, the principal)

(as _____ for _____, (a) (the) _____)

_____ (official signature and seal of notary)

Upon recording, return to:

(Name and Address of Owner)

[Correct 310 CMR 40.1099 Form 1084A as indicated.]

Form 1084A

RELEASE OF GRANT OF ENVIRONMENTAL RESTRICTION

M.G.L. c. 21E, § 6 and 310 CMR 40.0000

Disposal Site Name: _____
DEP Release Tracking No.(s) _____

WHEREAS, a Grant of Environmental Restriction from _____ of _____ (Town/City), _____ County, _____ (State), to the Department of Environmental Protection, an agency established under the laws of the Commonwealth of Massachusetts, having its principal office at One Winter Street, Boston, Massachusetts 02108 ("DEP"), dated _____, has been recorded with the _____ Registry of Deeds in Book _____, Page _____, and/or registered with the Land Registration Office of the _____ Registry District as Document No. _____; [as amended by an Amendment to Grant of Environmental Restriction dated _____, recorded with the _____ Registry of Deeds in Book _____, Page _____, and/or registered with the Land Registration Office of the _____ Registry District as Document No. _____;] (said Grant of Environmental Restriction and any amendments thereto are collectively referred to herein as "Grant");

WHEREAS, said Grant imposes certain restrictions on activities and uses, conditions, obligations and easements upon certain [vacant] land situated in _____, _____ County, Massachusetts [with the buildings and improvements thereon], said land being more particularly bounded and described in Exhibit A attached hereto and made a part hereof ("Property");

WHEREAS, said restrictions, conditions, obligations and easements were imposed upon the Property to (select one) [maintain a condition of No Significant Risk] [eliminate a substantial hazard] (said conditions and terms being defined in 310 CMR 40.0000) in accordance with the terms of an Activity and Use Limitation Opinion ("AUL Opinion") dated _____, issued and signed by _____, holder of a valid license issued by the Board of Registration of Waste Site Cleanup Professionals pursuant to M.G.L. c. 21A, §§ 19 through 19J (said holder being referred to as an "LSP"). Said AUL Opinion was issued and filed with DEP at its _____ Regional Office under Release Tracking No.(s) _____, a copy of which is attached to said Grant of Environmental Restriction as Exhibit C, and made a part thereof;

WHEREAS, the undersigned, _____, being an LSP, has issued an AUL Opinion in accordance with 310 CMR 40.0000, dated _____, a copy of which is attached hereto as Exhibit B and made a part hereof. Said AUL Opinion explains why the restrictions, conditions, obligations and easements created under said Grant are no longer necessary (select one) [to maintain a condition of No Significant Risk at the Property] [to eliminate a substantial hazard] and accordingly, said Grant may be released; and

NOW THEREFORE, in accordance with M.G.L. c. 21E, § 6 and 310 CMR 40.0000, the undersigned _____, being the Commissioner of DEP, does hereby release, abandon and forever discharge the restrictions on activity and use, conditions, obligations and easements imposed upon the Property under said Grant.

This Release of Grant of Environmental Restriction shall become effective upon its recordation and/or registration with the appropriate Registry of Deeds and/or Land Registration Office.

WITNESS the execution hereof under seal this _____ day of _____, 20__.

Commissioner
Department of Environmental Protection

The undersigned LSP hereby certifies that [he][she] executed the AUL Opinion dated _____, attached hereto as Exhibit B and made a part hereof, and that in [his][her] Opinion, this Release of Grant of Environmental Restriction is consistent with said AUL Opinion.

Date: _____

[Name of LSP]
[LSP SEAL]

[COMMONWEALTH OF MASSACHUSETTS]
[STATE OF _____]

_____, ss

_____, 20 __

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ (name of document signer), proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

(as partner for _____, a partnership)
(as _____ for _____, a corporation)
(as attorney in fact for _____, the principal)
(as _____ for _____, (a) (the) _____)

_____ (official signature and seal of notary)

Upon recording, return to:

(Name and Address of Owner)

[Correct 310 CMR 40.1099 Form 1084B as indicated.]

Form 1084B

[CONFIRMATORY] TERMINATION OF NOTICE OF ACTIVITY AND USE LIMITATION

M.G.L. c. 21E, § 6 and 310 CMR 40.0000
(310 CMR 40.1083(1)(a))

Disposal Site Name: _____
DEP Release Tracking No.(s) _____

WHEREAS, a Notice of Activity and Use Limitation has been recorded with the _____ Registry of Deeds in Book _____ Page _____, and/or registered with the Land Registration Office of the _____ Registry District as Document No. _____ [as amended by Amendment to a Notice of Activity and Use Limitation dated _____, recorded with the _____ Registry of Deeds in Book _____ Page _____, and/or registered with the Land Registration Office of the _____ Registry District as Document No. _____] (said Notice of Activity and Use Limitation and any amendments thereto are collectively referred to herein as "Notice");

WHEREAS, said Notice sets forth limitations on use and activities, conditions and obligations affecting certain [vacant] land situated in _____ (Town/City), _____ County, Massachusetts [with the buildings and improvements thereon], said land being more particularly bounded and described in Exhibit A attached hereto and made a part hereof ("Property");

WHEREAS, said limitations are consistent with the terms of an Activity and Use Limitation Opinion ("AUL Opinion") dated _____, signed and sealed by _____, holder of a valid license issued by the Board of Registration of Waste Site Cleanup Professionals, pursuant to M.G.L. c. 21A, §§ 19 through 19J (the holder being referred to as "LSP") attached to said Notice of Activity and Use Limitation as Exhibit C and made a part thereof, in order to (select one) [maintain at the Property a condition of No Significant Risk] [eliminate a substantial hazard] (said conditions and terms being defined in 310 CMR 40.0000); and

WHEREAS, the undersigned, _____, being an LSP, has issued an AUL Opinion in accordance with the MCP, dated _____, a copy of which is attached hereto as Exhibit B and made a part hereof. Said AUL Opinion states that the limitations on activities and uses, conditions and obligations set forth in said Notice are no longer necessary to (select one) [maintain a condition of No Significant Risk to health, safety, public welfare or the environment] [eliminate a substantial hazard] at the Property, and accordingly, said Notice may be terminated;

NOW, THEREFORE, as the limitations on activities and uses, conditions and obligations set forth in said Notice are no longer necessary to meet the requirements of 310 CMR 40.0000 at the Property, the undersigned, _____, of _____ (Town/City), _____ County, _____ (State), being the owner of said Property, hereby terminates said Notice.

[This Confirmatory Termination of Notice of Activity and Use Limitation is given to correct the inadvertent error(s) made in the Termination of Notice of Activity and Use Limitation dated _____, and recorded with the _____ Registry of Deeds in Book _____, Page _____, said error(s) being as follows:

- (i) _____ ;
- (ii) _____ ; and
- (iii) _____ .

In all other respects the terms of the Termination of Notice of Activity and Use Limitation remain unchanged.

(____ Owner _____) authorizes and consents to the filing and recordation of this Confirmatory Termination of Notice of Activity and Use Limitation, said Confirmatory Termination to become effective

when executed under seal by the undersigned LSP and recorded with the appropriate Registry of Deeds.]

[(Owner)] authorizes and consents to the filing and recordation/and or registration of this Termination of Notice of Activity and Use Limitation, said Termination to become effective when executed under seal by the undersigned LSP and recorded and/or registered with the appropriate Registry of Deeds and/or Land Registration Office.]

WITNESS the execution hereof under seal this ____ day of _____, 20__.

[Name of Owner]

[COMMONWEALTH OF MASSACHUSETTS]
[STATE OF _____]

_____, ss

_____, 20__

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ (name of document signer), proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

(as partner for _____, a partnership)

(as _____ for _____, a corporation)

(as attorney in fact for _____, the principal)

(as _____ for _____, (a) (the) _____)

_____ (official signature and seal of notary)

The undersigned LSP hereby certifies that [he]/[she] executed the AUL Opinion dated _____, filed with DEP at its _____ Regional Office under Release Tracking No.(s) _____, attached hereto as Exhibit B and made a part hereof, and that this [Confirmatory] Termination of Notice of Activity and Use Limitation is consistent with said AUL Opinion.

Date: _____

[Name of LSP]

[LSP SEAL]

[COMMONWEALTH OF MASSACHUSETTS]
[STATE OF _____]

_____, ss

_____, 19 __

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ (name of document signer), proved to

me through satisfactory evidence of identification, which were _____,
to be the person whose name is signed on the preceding or attached document, and
acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

(as partner for _____, a partnership)
(as _____ for _____, a corporation)
(as attorney in fact for _____, the principal)
(as _____ for _____, (a) (the) _____)

_____ (official signature and seal of notary)

Upon recording, return to:

(Name and Address of Owner)

[Correct 310 CMR 40.1099 Form 1084C as indicated.]

Form 1084C

[CONFIRMATORY] TERMINATION OF NOTICE OF ACTIVITY AND USE LIMITATION

M.G.L. c. 21E, § 6 and 310 CMR 40.0000 (310 CMR 40.1083(1)(b))

Disposal Site Name: _____

DEP Release Tracking No.(s) _____

WHEREAS, a Notice of Activity and Use Limitation has been recorded with the
_____ County Registry of Deeds in Book _____ Page _____, and/or registered with the Land
Registration Office of the _____ Registry District as Document No. _____ [as amended by
Amendment to a Notice of Activity and Use Limitation dated _____, recorded with the
_____ Registry of Deeds in Book _____ Page _____, and/or registered with the Land
Registration Office of the _____ Registry District as Document No. _____] (said Notice of
Activity and Use Limitation and any amendments thereto are collectively referred to herein as "Notice");

WHEREAS, said Notice sets forth limitations on use and activities, conditions and
obligations affecting certain [vacant] land situated in _____ (Town/City), _____
County, Massachusetts [with the buildings and improvements thereon], said land being more particularly
bounded and described in Exhibit A attached hereto and made a part hereof ("Property");

WHEREAS, said limitations are consistent with the terms of an Activity and Use Limitation
Opinion ("AUL Opinion") dated _____, signed and sealed by _____, holder of a valid
license issued by the Board of Registration of Waste Site Cleanup Professionals, pursuant to M.G.L. c.
21A, §§ 19 through 19J (the holder being referred to as "LSP") attached to said Notice of Activity and
Use Limitation as Exhibit C and made a part thereof, in order to (select one) [maintain at the Property a
condition of No Significant Risk] [eliminate a substantial hazard] (said conditions and terms being defined
in 310 CMR 40.0000); and

WHEREAS, said Notice is being terminated so that it may be substituted with the Notice of Activity and Use Limitation given by _____, dated _____, and recorded and/or registered immediately hereinafter;

NOW, THEREFORE, I/We, of _____ of _____ (City/Town) _____ County, _____ (State), being the owner(s) of said Property, do hereby terminate said Notice and substitute the same with the Notice of Activity and Use Limitation given by _____, dated _____, and recorded and/or registered immediately hereinafter.

[This Confirmatory Termination of Notice of Activity and Use Limitation is given to correct the inadvertent error(s) made in the Termination of Notice of Activity and Use Limitation dated _____, and recorded with the _____ Registry of Deeds in Book _____, Page _____, said error(s) being as follows:

(i) _____ ;

(ii) _____ ; and

(iii) _____ .

In all other respects the terms of the Termination of Notice of Activity and Use Limitation remain unchanged.

[(Owner)] authorizes and consents to the filing and recordation of this Confirmatory Termination of Notice of Activity and Use Limitation, said Confirmatory Termination to become effective when recorded with the appropriate Registry of Deeds.]

[(Owner)] authorizes and consents to the filing and recordation/and or registration of this Termination of Notice of Activity and Use Limitation, said Termination to become effective when recorded and/or registered with the appropriate Registry of Deeds and/or Land Registration Office.]

WITNESS the execution hereof under seal this ____ day of _____, 20__.

[Name of Owner]

[COMMONWEALTH OF MASSACHUSETTS]
[STATE OF _____]

_____, ss

_____, 20 __

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ (name of document signer), proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

(as partner for _____, a partnership)

(as _____ for _____, a corporation)
(as attorney in fact for _____, the principal)
(as _____ for _____, (a) (the) _____)

(official signature and seal of notary)

Upon recording, return to:

(Name and Address of Owner)

[Correct 310 CMR 40.1099 Form 1084D as indicated.]

Form 1084D

TERMINATION OF NOTICE OF ACTIVITY AND USE LIMITATION
M.G.L. c. 21E, § 6, 310 CMR 40.0000

Disposal Site Name: _____
DEP Release Tracking No.(s) _____

WHEREAS, a Notice of Activity and Use Limitation has been recorded with the _____ Registry of Deeds in Book _____ Page _____, and/or registered with the Land Registration Office of the _____ Registry District as Document No. _____ [as amended by an Amendment to a Notice of Activity and Use Limitation dated _____, recorded with the _____ Registry of Deeds in Book _____ Page _____, and/or registered with the Land Registration Office of the _____ Registry District as Document No. _____] (said Notice of Activity and Use Limitation and any amendments thereto are collectively referred to herein as "Notice");

WHEREAS, said Notice sets forth limitations on use and activities, conditions, and obligations affecting certain [vacant] land situated in _____ (Town/City), _____ County, Massachusetts [with the buildings and improvements thereon], said land being more particularly bounded and described in Exhibit A attached hereto and made a part hereof ("Property");

WHEREAS, said limitations are consistent with the terms of an Activity and Use Limitation Opinion ("AUL Opinion") dated _____, signed and sealed by _____, holder of a valid license issued by the Board of Registration of Waste Site Cleanup Professionals, pursuant to M.G.L. c. 21A, §§ 19 through 19J inclusive, (the holder being referred to as "LSP") attached to said Notice of Activity and Use Limitation as Exhibit C and made a part thereof, in order to (select one) [maintain at the Property a condition of No Significant Risk] [eliminate a Substantial Hazard] (said conditions and terms being defined in 310 CMR 40.0000); and

WHEREAS, said Notice is being terminated because additional response actions are necessary to support the conclusion that [a condition of No Significant Risk has been achieved at the Property][all Substantial Hazards have been eliminated at the Property].

NOW, THEREFORE, I/We of _____ (City/Town) _____ County, _____ (State), being the owner(s) of said Property, do hereby terminate said Notice.

(Owner) authorizes and consents to the filing and recordation~~/and/~~or registration of this Termination of Notice of Activity and Use Limitation, said Termination to become effective when recorded and/or registered with the appropriate Registry of Deeds and/or Land Registration Office.]

WITNESS the execution hereof under seal this ____ day of _____, 20__.

[Name of Owner]

[COMMONWEALTH OF MASSACHUSETTS]
[STATE OF _____]

_____, ss

_____, 20 __

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ (name of document signer), proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

(as partner for _____, a partnership)
(as _____ for _____, a corporation)
(as attorney in fact for _____, the principal)
(as _____ for _____, (a) (the) _____)

_____ (official signature and seal of notary)

Upon recording, return to:

(Name and Address of Owner)

[Correct 310 CMR 40.1099 Form 1084E as indicated.]

Form 1084E

RELEASE OF GRANT OF ENVIRONMENTAL RESTRICTION

M.G.L. c. 21E, § 6 and 310 CMR 40.0000

Disposal Site Name: _____
DEP Release Tracking No.(s) _____

WHEREAS, a Grant of Environmental Restriction from _____ of _____ (Town/City), _____ (County), _____ (State), to the Department of Environmental Protection, an agency established under the laws of the Commonwealth of Massachusetts, having its principal office at One Winter Street, Boston, Massachusetts 02108 ("DEP"), dated _____, has been recorded with the _____ Registry of Deeds in Book _____ Page _____, and/or registered with the Land Registration Office of the _____ Registry District as Document No. _____ [as amended by Amendment to a Notice of Activity and Use Limitation dated _____, recorded with the _____ Registry of Deeds in Book _____ Page _____, and/or registered with the Land Registration Office of the _____ Registry District as Document No. _____] (said Grant of Environmental Restriction and any amendments thereto are collectively referred to herein as "Grant");

WHEREAS, said Grant imposes certain restrictions on activities and uses, conditions, obligations and easements upon certain [vacant] land situated in _____ (Town/City), _____ County, Massachusetts [with the buildings and improvements thereon], said land being more particularly bounded and described in Exhibit A attached hereto and made a part hereof ("Property");

WHEREAS, said restrictions, conditions, obligations and easements were imposed upon the Property in order to [maintain a condition of No Significant Risk] [eliminated a Substantial Hazard] (said conditions and terms being defined in 310 CMR 40.0000) in accordance with the terms of an Activity and Use Limitation Opinion ("AUL Opinion") dated _____, signed and sealed by _____, holder of a valid license issued by the Board of Registration of Waste Site Cleanup Professionals, pursuant to M.G.L. c. 21A, §§ 19 through 19J inclusive (the holder being referred to as "LSP") attached to said Grant as Exhibit C and made a part thereof; and

WHEREAS, said Grant is being released because additional response actions are necessary to support the conclusion that [a condition of No Significant Risk has been achieved at the Property][all Substantial Hazards have been eliminated at the Property].

NOW, THEREFORE, in accordance with M.G.L c. 21E, § 6 and 310 CMR 40.0000, the undersigned _____, being the Commissioner of DEP, does hereby release, abandon and forever discharge the restrictions on activity and use, conditions, obligations and easements imposed upon the Property under said Grant. This Release of Grant of Environmental Restriction shall become effective upon its recordation and/or registration with the appropriate Registry of Deeds and/or Land Registration Office.

_____, being the

WITNESS the execution hereof under seal this ____ day of _____, 20__.

[Commissioner, Department
of Environmental Protection]

[COMMONWEALTH OF MASSACHUSETTS]

[STATE OF _____]

_____, ss

_____, 20__

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ (name of document signer), proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

(as partner for _____, a partnership)

(as _____ for _____, a corporation)

(as attorney in fact for _____, the principal)

(as _____ for _____, (a) (the) _____)

_____ (official signature and seal of notary)

Upon recording, return to:

(Name and Address of Owner)

[Correct 310 CMR 40.1190(2) as indicated.]

40.1190: Reservation of Rights

(1) No provision of 310 CMR 40.1100 shall be construed to relieve any person from any obligation for Response Action Costs or damages related to a site or disposal site for which that person is liable under M.G.L. c. 21E or from any obligation for any administrative, civil or criminal penalty, fine, settlement, or other damages.

(2) No provision of 310 CMR 40.~~1200~~1100 shall be construed to limit the Department's authority to take or arrange, or to require any RP or PRP to perform, any response action authorized by M.G.L. c. 21E which the Department deems necessary to protect health, safety, public welfare or the environment.

[Correct 310 CMR 40.1303 (1)(b) as indicated.]

40.1303: Participation by the Public, RPs and PRPs

(1) After the Department decides to establish an administrative record pursuant to 310 CMR 40.1300, and prior to the selection of a response action, the Department shall give notice and afford interested persons a reasonable opportunity to comment. Unless response actions must be taken earlier to control the potential for health damage, human exposure, safety hazards or environmental harm through appropriate short term measures, the Department shall give notice at least 21 days prior to its selection of a response action as follows:

...

(b) by certified mail, return receipt requested, to any person who the Department reasonably believes:

a1. is an RP or a PRP; or

b2. holds title to, or an ownership interest in, any real property which comprises the disposal site or which may be affected by the response action and whose name and address is known by the Department at the time the Department elects to establish such an administrative record;

...

[Correct 310 CMR 40.1403 (7)(b)2. and (9)(c)6. as indicated.]

40.1403: Minimum Public Involvement Activities in Response Actions

(7) Within 30 days after recording and/or registering any original, amended, released or terminated Activity and Use Limitation pursuant to 310 CMR 40.1070 through 40.1080, the following requirements shall be met to inform local officials and the public of the limitations which apply to activities and/or uses of the property subject to the Activity and Use Limitation

...

(b) a public notice pursuant to 310 CMR 40.1403(2)(b) which indicates the recording and/or registering of the original, amended, released or terminated Activity and Use Limitation shall be published in a newspaper that circulates in the community(ies) in which the property subject to the Activity and Use Limitation is located.

...
2. A copy of this legal-public notice shall be submitted to the Department within seven days of its publication.

...
(9) Local officials or ten or more residents of a community(ies) in which a disposal site is located or in any other communities which are, or are likely to be, affected by a disposal site may request an opportunity for Public Involvement Activities related to any Immediate Response Action conducted pursuant to 310 CMR 40.0410 or Release Abatement Measure conducted pursuant to 310 CMR 40.0440. Such request shall be made in writing to the person(s) conducting the response actions and copied concurrently to the Department.

...
(c) when providing the opportunity to the public to submit written comments, the person(s) conducting response actions shall:

...
65. include the written summary of and response to comments in the next related response action submittal to the Department and place it in the public information repository;

...
[Correct 310 CMR 40.1404 (1)(d) and (e) as indicated.]

40.1404: Public Involvement Plan Site Designation

(1) The following disposal sites shall be eligible for PIP Site Designation:

...
(d) any disposal site at which response actions are being conducted in accordance with 310 CMR 40.0113 and for which either a RCRA Facility Assessment or equivalent assessment in accordance with 310 CMR 30.000: The Massachusetts Hazardous Waste regulations has been completed; or

(e) any disposal site at which response actions are being conducted in accordance with 310 CMR 40.0114 and for which an Initial Site Assessment or equivalent assessment in accordance with 310 CMR 19.00: The Massachusetts Solid Waste Management regulations has been completed.

[Correct 310 CMR 40.1405 (5)(d) as indicated.]

40.1405: Additional Public Involvement Activities Required for Public Involvement Plan Sites

(5) Upon designation of a disposal site as a PIP Site:

...
(d) a summary of comments received on the draft Public Involvement Plan shall be developed that contains the comments received, identifies comments that have been incorporated and provides an explanation for comments that were not incorporated into

the final Public Involvement Plan. The copy of the response to comments and the final Public Involvement Plan shall be made available in the information repository(ies) established for the disposal site pursuant to 310 CMR 40.1405(6)(j);

. . .

[Correct the heading at 310 CMR 40.1457 on page 1740 as indicated.]

40.14-57: continued